

REMARKS

Claims 1-24 remain in the referenced application. Claim 15 has been amended. Claims 25-36 are canceled.

In the Office Action dated March 28, 2007, the Examiner maintains rejections of claims 1-14 under 35 U.S.C. §103(a) as being unpatentable over Poindexter (US Patent No.: 5,398,517, hereinafter denoted as “Poindexter”). The Examiner asserts that Poindexter’s potable water collection tray and Applicant’s invention are functionally equivalent, and, therefore, it would have been obvious to clean Applicant’s drip tray with Poindexter’s cleaning system on the basis that placing Poindexter’s spray manifold into Applicant’s drip tray to create Applicant’s invention is acceptable because “the rearranging of part of an invention involves only routine skill in the art.” Applicant is unaware of any principle of patent law that allows its invention to be combined with a prior art reference. Applicant therefore respectfully submits that the Examiner’s rejection is improper and must fail.

Nevertheless, even if the Examiner intends to rearrange Poindexter’s Potable Water Collection Device by moving Poindexter’s spray nozzle into Poindexter’s collection tray to create Applicant’s invention, Applicant respectfully submits such a modification is improper as contradictory to MPEP Section 2143.01(VI). MPEP Section 2143.01(VI) states, “If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims prima facie obvious. *In re Ratti*, 270 F .2d 810, 123 USPQ 349 (CCPA 1959).” In applying MPEP 2143.01(VI), Applicant respectfully submits the Examiner’s proposed modification must violate MPEP Section 2143.01(VI) because it violates Poindexter’s principle of operation.

Poindexter's principle of operation is to produce water in a sanitary environment, and then collect the "potable" water generated. Poindexter sanitizes his entire potable water collection path, runs a refrigerant circuit to produce condensation on his cooling coils, and collects potable water. Poindexter, accordingly, discloses sanitizing his entire "potable water collection path" by placing a spray nozzle above his cooling coils, spraying sanitizing fluid at the uppermost regions of his "potable water collection path," and allowing the sanitizing fluid to move down his collection flowpath, thereby sanitizing the balance of his "potable water collection path." Applicant respectfully contends that movement of Poindexter's spray nozzle to his collection tray only allows Poindexter to sanitize lower regions of his "collection path," as the spray nozzle will not effectively reach the higher portions of his collection path, including his cooling coils. Applicant respectfully submits that unsanitized areas in Poindexter's water collection path will result in the propagation of bacteria and contamination of the entire collection path, as well as the water collected by Poindexter. Poindexter's principle of operation includes sanitizing his entire collection path to maintain a sterile environment for the generation and collection of potable water. Applicant therefore respectfully submits that sanitizing only a "portion" of Poindexter's "potable water collection path" does not permit Poindexter to maintain a sanitary environment, as bacteria will form and propagate in the unsanitized areas. A contaminated water collection path is not conducive to collecting potable water, as the bacteria developing at the coils will be transmitted by the water flow to water storage devices. Poindexter must be able to produce and collect water in a sanitized environment. Therefore, contrary to the Examiner's assertion, Poindexter teaches away from placing his spray manifold in a lower region of his "collection path." Poindexter must retain a sanitary "potable water collection path" at all times, and therefore is forced to place his spray nozzle in a place that

ensures the sanitization of his entire “potable water collection path.” Clearly, movement of Poindexter’s spray nozzle to his collection tray violates MPEP Section 2143.01(VI), as placement of Poindexter’s spray nozzle into his collection tray does not allow Poindexter to sanitize his entire “potable water collection path,” which violates Poindexter’s principle of operation.

Moreover, the Examiner’s modification to Poindexter’s potable water collection system also violates MPEP Section 2143.01(V). MPEP Section 2143.01(V) states, “If the proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).” Applicant respectfully submits that the Examiner’s proposed modification must violate MPEP Section 2143.01(V), because it destroys Poindexter’s intended purpose.

As described in the arguments for claim 1 in view of MPEP Section 2143.01(VI), Poindexter’s intended purpose is to produce water in a sanitary environment, and then collect the “potable” water generated. Poindexter, accordingly, sanitizes his entire potable water collection path, runs a refrigerant circuit to produce condensation on his cooling coils, and collects potable water. Poindexter, accordingly, discloses sanitizing his entire “potable water collection path” by placing a spray nozzle above his cooling coils, spraying sanitizing fluid at the uppermost regions of his “potable water collection path,” and allowing the sanitizing fluid to move down his collection flowpath, thereby sanitizing the balance of his “potable water collection path.” Applicant respectfully contends that movement of Poindexter’s spray nozzle to his collection tray only allows Poindexter to sanitize lower regions of his “collection path,” as the spray nozzle will not effectively reach the higher portions of his collection path, including his cooling coils.

Applicant respectfully submits that unsanitized areas of Poindexter's water collection path will result in the propagation of bacteria and eventual contamination of the entire collection path, as well as the water generated by the potable water collection device. Poindexter's intended purpose is to generate and collect potable water, and therefore, Poindexter is forced to sanitize his entire collection path. Failure to do so renders Poindexter's potable water collection device unsanitary, and water generated in a non-sterile environment is not potable. Applicant respectfully submits that a partially sanitized water collection path does not produce sanitized or potable water. Poindexter discloses a "potable water collection coil cleaning device." The contaminated areas then contaminate the remainder of his collection path, including his potable water storage devices, as the contaminated water flows to the storage devices. As such, the movement of Poindexter's spray nozzle into his collection tray violates MPEP Section 2143.01(V), as placement of Poindexter's spray nozzle into his collection tray does not allow Poindexter to sanitize his entire collection path, thereby creating the contamination points along his collection path.

Based on the foregoing arguments, Applicant respectfully contends that claim 1 is patentable over Poindexter, as the rejection is contrary to MPEP Sections 2143.01 (V) and (VI), and respectfully requests that the rejection of claim 1 under 35 U.S.C. §103(a) be withdrawn.

Claims 2-14 stand rejected under 35 U.S.C. §103(a) as being anticipated by Poindexter. Applicant respectfully contends that the patentability of claims 2-15 lies with the patentability of claim 1.

Claim 15 stands rejected under 35 U.S.C. §103(a) by Poindexter in view of Lindner (U.S. Patent No.: 3,942,685, hereinafter denoted as "Lindner"). Claim 15 has been amended to include the recitation of "and" in the listed components. The Examiner asserts that "Poindexter discloses

an apparatus for periodically cleaning a water collection tray of a potable water collection system,” and Lindner discloses, “a product dispenser comprising a housing including a controller and drip tray disposed on the housing.” The Examiner further asserts that, “it would have been obvious for one skilled in the art to use the cleaning system taught by Poindexter in the product dispenser taught by Lindner to obtain the claimed product dispenser, because the drip tray of Lindner and the collection tray taught by Poindexter are functionally equivalent.”

Applicant respectfully traverses the Examiner’s rejection of claim 15 over the combination of Poindexter in view of Lindner because the combination violates MPEP Section 2143.01 (VI). MPEP Section 2143.01 (VI) states, “If the proposed modification or combination of the prior art would change the principle of operation of the prior art invention being modified, then the teachings of the references are not sufficient to render the claims *prima facie* obvious. *In re Ratti*, 270 F .2d 810, 123 USPQ 349 (CCPA 1959).” Applicant respectfully contends in applying MPEP Section 2143.01(VI), it is clear the principles of operation of both Lindner and Poindexter must be compromised.

Lindner discloses removing his drip tray from his product dispenser for cleansing. Lindner states, “By this arrangement, the drip tray 140 is easily and readily removable from the housing 3 independently of the cover 26 for cleaning when dripping or leakage does occur contributing to the maintenance of a sanitary condition within the refrigerator,” (Col.: 8, Lines: 66-68 through Col.: 9, Lines 1-3). Clearly, the Examiner’s modification of placing Poindexter’s spray nozzle into Lindner’s drip tray for cleansing is contrary to Lindner’s principle of operation, because Lindner removes his drip tray from the product dispenser for cleansing. Sanitizing a product dispenser drip tray “in-place” is markedly different than removing the drip tray for cleansing, because “in-place” cleansing requires disposal of all fluids delivered to the drip tray.

In fact, Lindner provides no capability to drain his drip tray to a suitable disposal. Consequently, the influx of fluid from Poindexter's spray nozzle would rapidly fill Lindner's drip tray thereby creating an undesired overflow of sanitizing fluid, remnant, and the like. Lindner's drip tray is not prepared to accept large amounts of fluid from Poindexter's spray nozzle, and therefore the placement of Poindexter's spray nozzle into Lindner's drip tray clearly contradicts Lindner's principle of operation.

Poindexter's principles of operation require the sanitizing of the entire "potable water collection path" to ensure the generation and delivery of potable water to a storage device. As such, the failure to sanitize Poindexter's entire "potable water collection path" renders Poindexter's potable water collection device inoperable, as microbial growth will occur and contaminate the potable water generated and collected. Applicant therefore respectfully contends that the Examiner's movement of Poindexter's spray nozzle to a lower region of a collection path, such as Lindner's drip tray, does not allow the cleansing of upper regions of the collection path," as required by Poindexter. The Examiner, accordingly, has violated MPEP 2143.01(VI) by compromising Poindexter's ability to sanitize an entire "collection path" to ensure that potable water is generated, because Poindexter is forced to deliver sanitizing fluid to his entire potable water collection path to prevent the contamination of the path. Placement of Poindexter's spray nozzle into Lindner's drip tray does not allow Poindexter to maintain a sanitary flowpath. Accordingly, the combination of Poindexter and Lindner is improper and violates MPEP Section 2143.01(VI), as the principles of operation of both Lindner and Poindexter must be changed in order to produce the claimed invention.

In fact, the only disclosure that a sanitizing nozzle be placed in a drip tray is found in Applicant's disclosure. Lindner has no disclosure illustrating a sanitizing nozzle in his drip tray

and Poindexter teaches away from placing his spray nozzle in a lower region of his collection path. Accordingly, the only motivation to place Poindexter's spray nozzle into Lindner's drip tray is found in Applicant's invention, which constitutes a "hindsight reconstruction" of Applicant's invention using Applicant's disclosure.

Based on the foregoing argument, Applicant respectfully contends that claim 15 is patentable over Poindexter, as the rejection is contrary to MPEP Section 2143.01 (VI), and respectfully requests that the rejection of claim 15 under 35 U.S.C. §103(a) be withdrawn.

Claims 16-24 stand rejected under 35 U.S.C. §103(a) by Poindexter in view of Lindner. Applicant respectfully contends that the patentability of claims 16-24 lies with the patentability of claim 15.

The prior art made of record has been reviewed by Applicant and is deemed not to anticipate nor render obvious the claimed invention.

In view of the foregoing, Applicant respectfully requests reconsideration of the rejected claims, and solicits early allowance of the subject application.

Respectfully submitted,

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